

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JACOB O'MARA,

Plaintiff,

v.

COMMUNITY MENTAL
HEALTH OF WASHTENAW
COUNTY et al.,

Defendants.

Case No. 21-12278

Honorable Shalina D. Kumar

Magistrate Judge Curtis Ivy, Jr.

**ORDER ADOPTING REPORT AND RECOMMENDATION (ECF NO. 52),
GRANTING THE STATE DEFENDANTS' MOTION TO DISMISS (ECF
NO. 9), DISMISSING STATE DEFENDANTS FROM THE CASE, AND
DENYING PLAINTIFF'S AMENDED MOTION FOR SUMMARY
JUDGMENT AND REQUEST FOR INJUNCTIVE RELIEF AND
SANCTIONS (ECF NO. 36)**

Plaintiff Jacob O'Mara sued the Michigan Department of Health and Human Services, Elizabeth Hertel, Governor Gretchen Whitmer ("State Defendants"), and Community Mental Health of Washtenaw County ("WCCMH") on September 28, 2021. ECF No. 1. The State Defendants moved to dismiss (ECF No. 9), Plaintiff responded (ECF No. 22), and the State Defendants replied (ECF No. 32). WCCMH did not respond to the State Defendants' motion to dismiss and takes no position on the motion or

the requested relief. ECF No. 35, PageID.540. Plaintiff filed an amended motion for injunctive relief and sanctions (ECF No. 36) to which State Defendants (ECF No. 45) and WCCMH (ECF No. 47) responded. Both motions were referred to the magistrate judge. ECF Nos. 24, 39.

On August 8, 2022, the magistrate judge issued a Report and Recommendation (“R&R”). ECF No. 52. The R&R recommends that the Court **GRANT** the State Defendants’ motion to dismiss (ECF No. 9) and that the State Defendants be **DISMISSED** from this case. It further recommends that Plaintiff’s amended motion for summary judgment and request for injunctive relief and sanctions (ECF No. 36) be **DENIED**.

Plaintiff filed objections to the R&R (ECF No. 55), and both the State Defendants and WCCMH responded (ECF Nos. 56; 57).

Plaintiff filed no objections to the portion of the R&R which recommended denying his amended motion for summary judgment and request for injunctive relief and sanctions (ECF No. 36). O’Mara therefore failed to preserve any objection to these recommendations, and they are **ADOPTED**. See *Willis v. Sec’y of Health and Human Servs.*, 931 F.2d 390, 401 (6th Cir. 1991).

O'Mara filed four objections to the portion of the R&R which recommended granting the State Defendants' motion to dismiss. ECF No. 55. These objections focused on the State Defendants' Eleventh Amendment defenses as discussed in the R&R. *Id.* O'Mara failed to file any objections to the R&R's separate conclusion that, regardless of whether the Eleventh Amendment shields them from immunity, Federal Rule of Civil Procedure 12(b)(6) requires dismissal of all his claims against the State Defendants because O'Mara failed to plead them with any particularity. ECF Nos. 52; 55. O'Mara waived his objections to this Rule 12(b)(6) recommendation by not including them in his objections. *Willis v. Sec'y of Health and Human Servs.*, 931 F.2d at 401; *United States v. Walters*, 638 F.2d 947, 950 (6th Cir. 1981). It is therefore **ADOPTED**.

Because the 12(b)(6) recommendation will result in the dismissal of all claims against the State Defendants, O'Mara's objections regarding their Eleventh Amendment defenses are moot. Those objections are therefore **DENIED**.

Accordingly,

IT IS ORDERED that the State Defendants' motion to dismiss (ECF No. 9) is **GRANTED** and the State Defendants are **DISMISSED**.

IT IS FURTHER ORDERED that Plaintiff's amended motion for summary judgment and request for injunctive relief and sanctions (ECF No. 36) is **DENIED**.

Dated: September 19, 2022

s/Shalina D. Kumar
SHALINA D. KUMAR
United States District Judge